

APR 28 2010

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	
	)	CONSENT ORDER
PETITIONER,	)	
	)	CAUSE NO. C-1822
VS.	)	
	)	
NEW ENGLAND LIFE INSURANCE	)	
COMPANY,	)	
	)	
RESPONDENT.	)	

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Michael C. Boyd and New England Life Insurance Company ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. §§ 44-101.01, 44-135, 44-303 et seq., 44-1521 et seq. and Title 210, Chapter 15 of the Nebraska Administrative Rules and Regulations. Said jurisdiction and control have been present at all times material hereto.

2. Respondent is a Massachusetts domiciled insurer licensed to conduct business in Nebraska as a foreign insurer.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. New England Life Insurance Company, Cause

Number C-1822 on March 15, 2010. A copy of the petition was served upon the Respondent's agent for service of process, CT Corporation System 1024 K Street, Suite 500, Lincoln, NE 68508 by certified mail, return receipt requested.

2. The Petition alleges that the Respondent violated Title 210, Chapter 15 §009.01 as a result of the following conduct:

- a. On or about March, 2009, a complaint was filed by the daughter of policy owner Russell K. Copple (hereinafter "Insured") with the Department, advising that her father's flexible premium adjustable variable survivorship life insurance policy #1Z003338 which her parents had purchased in August, 1998 from the Respondent, had its premiums skyrocket to just stay afloat, without any cash value, even though the Insured had paid an \$18,000 premium each August, including in August, 2008. In January, 2009 the Insured's agent had advised the Insured's children that this policy was in jeopardy of lapsing and needed additional premium paid into the policy to maintain its coverage until the policy's next anniversary date in August, 2009. The complainant further noted that Insured had always received an annual statement report from Respondent on the policy's anniversary each August, but hadn't in August 2008, and when they contacted the Insured's agent about the 2008 annual statement report, the agent advised that Respondent was implementing a "new format" for that report, and it wouldn't be out until March, 2009 (which the Insured still hadn't received at the time this complaint was filed.)
- b. Scott Zager ("Zager"), an Insurance Investigator with the Department's Consumer Affairs Division, was assigned to investigate this matter. In the Spring of 2009, Zager corresponded with Respondent several times requesting information and answers to questions raised in his letters, including their explanation of the delay involved in their providing the August 2008 annual statement report for the Insured's policy #1Z003338.
- c. In its responses to Zager's correspondence noted above in subparagraph 3b, the Respondent noted that it had transitioned the administration of its annual statement reports for its policy owners such as Insured, but that the availability of those annual statements was delayed a number of times due to the system conversion, and subsequent series of programming issues they encountered. Respondent further noted that 123 policies affected by the delay in providing the 2008 annual report were in the State of Nebraska.
- d. Respondent subsequently sent Zager a spreadsheet that confirmed the identity of the 123 policy owners referenced in subparagraph 3c and that it had mailed all the delayed annual statement reports on the affected policies, including the Insured's, on or about May, 2009.

- e. By its submitted responses noted above in subparagraph 3c and the spreadsheet in subparagraph 3d, Respondent in effect admitted that it had failed to send its Nebraska variable life policy owners (as listed in their spreadsheet) their 2008 policy annual statement report within 30 days after the anniversary date of each of those policies.
3. Respondent was informed of its right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving the right to a public hearing, Respondent also waives the right to confrontation of witnesses, production of evidence, and judicial review.
  4. Respondent accepts and consents to the allegations contained in the Petition without admitting or denying these allegations, solely for the purpose of this proceeding, in lieu of a hearing and without an adjudication of any issue of law or fact.

#### CONCLUSIONS OF LAW

The Department concludes that Respondent's conduct as alleged above constitutes a violation of Title 210, Chapter 15 §009.01, and is subject to disciplinary action pursuant to Neb. Rev. Stat. § 44-1529.

#### CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed by Respondent, New England Life Insurance Company, that Respondent shall pay an administrative fine in the amount of six thousand one hundred fifty dollars (\$6,150.00), due within 30 days after the Director of Insurance or her designee approves and signs this consent order. The Nebraska Department of Insurance shall

retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing his/her signature below.

Michael C. Boyd  
Michael C. Boyd  
Attorney for Petitioner  
941 O Street, Suite 400  
Lincoln, NE 68508  
(402) 471-2201

4-26-2010  
Date

Kathleen J. Schoos  
New England Life Insurance Company,  
Respondent

By: Kathleen Schoos

April 19, 2010  
Date

State of Rhode Island )  
County of Providence ) ss.  
)

On this 19 day of April, 2010, an authorized representative of New England Life Insurance Company personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his/her voluntary act and deed.

Patricia E. Gault  
Notary Public  
Commission Expires: 11-22-2013

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. New England Life Insurance Company, Cause No. C-1822.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

Ann M Frohman  
ANN M. FROHMAN  
Director of Insurance

4-28-2010  
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent in care of David LaRocca, Senior Counsel MetLife Legal Affairs, 1095 Avenue of the Americas New York, NY 10036-6796 by certified mail, return receipt requested on this 28<sup>th</sup> day of April, 2010.

Tracy A. Shuman